

REMARKS/ARGUMENTS

Applicants greatly appreciate the courtesy that the Examiner extended to applicants' representative during the telephone interviews held on October 29, 2008. The discussion during the telephone interviews has been taken into consideration herein.

Status of the Claims

Claims 11-41 are pending in the application, with claims 11, 21, and 41 being the only independent claims. Claims 16, 19, 25 and 28 have been withdrawn from further consideration. Independent claims 11 and 21 have been amended based on the subject matter shown in Figs. 2 and 3. New independent claim 41 has been added, which is supported by independent claim 11 and Figs. 2 and 3. No new matter has been added.

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

Summary of the Office Action

Claims 21-24, 26-27, 29, and 33-36 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,743,375 (*Shyr*).

Claims 11-15, 17-18, and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shyr* in view of U.S. Patent No. 5,655,425 (*Ruohio*).

Claims 30-32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shyr* in view of U.S. Patent No. 5,060,780 (*Santandrea*).

Claims 37 and 38 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shyr*.

Claims 39 and 40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shyr* in view of *Santandrea*.

Patentability of the Claimed Invention

Independent Claim 11

Independent claim 11 recites, at least, “separating the rolls from each other when the rolls of the roll set are transported over the elevation by the conveyor belt or chain.” For reasons elaborated below, the above recited claim features of independent claim 11 are not taught by *Shyr* because *Shyr* does not teach separating articles 9 transported on the conveyor transfer apparatus when they arrive at the rollers 74 of the conveyor transfer apparatus.

The Office Action interprets the rollers 74 in *Shyr* as the “elevation” recited in independent claim 11 (*see*, last paragraph on page 4 of the Office Action). Without admitting or disputing such interpretation made in the Office Action, applicants submit that the articles 9 transported on *Shyr*’s conveyor transfer apparatus are not separated from one another when being transported over the rollers 74.

Shyr teaches a conveyor transfer apparatus which operates to transfer articles 9 from the main conveyer 1 to a secondary conveyer 2 for diversion purposes. (*See*, col. 2, ll. 16-20 and Fig. 8 of *Shyr*.) The rollers 74, 76 in *Shyr* are part of the chain 72, which forms the conveyor transfer apparatus. During operation of the conveyor transfer apparatus, the rollers 74, 76 and the chain 72 collectively carry the articles 9 loaded on the conveyor transfer apparatus.

There is no teaching in *Shyr* to separate articles 9 from one another when they are transported over the rollers 74, 76 of the conveyor transfer apparatus. Rather, the articles 9 loaded on the conveyor transfer apparatus are carried by the rollers 74, 76 and the chain 72 collectively. No article 9 in *Shyr* is separated from other articles 9 when such articles 9 are being transported on the conveyor transfer apparatus. Therefore, *Shyr* does not teach or suggest “separating the rolls from each other when the rolls of the roll set are transported over the elevation by the conveyor belt or chain,” as explicitly recited in independent claim 11.

Ruohio on the other hand is cited in the Office Action as disclosing transporting rolls in a roll set as recited in independent claim 11 and does not remedy the above discussed deficiencies of *Shyr*. Accordingly, the above recited claim features of independent claim 11 are not taught by the combined art.

In view of all the above, independent claim 11 patentably distinguishes over the cited art. Withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 11 is respectfully requested.

Independent Claim 21

Independent claim 21 recites, at least, “an elevating roll assembly positioned at a second section of the transport path below the conveyor belt or chain” and “operable to raise a portion of the top surface of the conveyor belt or chain to form an elevation above the remaining portion of the top surface of the conveyor belt or chain.” The above claim features of independent claim 21 are not taught by *Shyr* because neither chain 72 nor rollers 76 in *Shyr* read on “the elevating roll assembly” recited in independent claim 21.

The Office Action interprets the chain 72 and the rollers 76 in *Shyr* to be the “elevating roll assembly ” recited in independent claim 21 (*see*, last paragraph on page 2 of the Office Action). Without admitting or disputing such interpretation made in the Office Action, applicants submit that rollers 76 are part of the chain 72. Therefore, neither chain 72 nor rollers 76 in *Shyr* meet the claim features of “below the conveyor belt or chain,” which is explicitly recited in independent claim 21.

Moreover, none of other components in *Shyr*’s conveyer transfer apparatus can be construed as “the elevating roll assembly” recited in independent claim 21. For example, the spindles 41, 42 and the associated eccentric sleeves 61, 62 in *Shyr* operate to raise or lower the entire conveyer transfer apparatus and consequently cannot “raise a portion of the top surface of the conveyor belt or chain to form an elevation above the remaining portion of the top surface of the conveyor belt or chain,” as explicitly recited in independent claim 21.

In view of all the above, *Shyr* does not teach or suggest an elevating roll assembly that is “positioned at a second section of the transport path below the conveyor belt or chain” and “operable to raise a portion of the top surface of the conveyor belt or chain to form an elevation above the remaining portion of the top surface of the conveyor belt or chain,” as is explicitly recited in independent claim 21. Therefore, independent claim 21 patentably distinguishes over *Shyr*. Withdrawal of the 35 U.S.C. § 102(b) rejection of independent claim 21 is respectfully requested.

New Independent Claim 41

Similar to independent claim 11, new independent claim 41 recites “separating the rolls from one another when the rolls of a roll set are transported to the elevation section by the conveyor belt or chain.” Therefore, new independent claim 41 is allowable for at least the same reasons that independent claim 11 is allowable.

Dependent Claims 12-15, 17-18, 20, 22-24, 26-27, and 29-40

Claims 12-15, 17-18, and 20 depend from independent claim 11 and thus are allowable therewith, as well as for the additional limitations recited therein.

Claims 22-24, 26-27, and 29-40 depend from independent claim 21. The additional references are cited in Office Action against the claim features recited in these dependent claims and do not cure the deficiencies of *Shyr* and *Ruohio*. Therefore, claims 22-24, 26-27, and 29-40 are allowable for the same reasons that independent claim 21 is allowable, as well as for the additional limitations recited therein.

Rejoinder of Claims 16, 19, 25, and 28

Independent claim 11 is generic to claims 16 and 19 and independent claim 21 is generic to claims 25 and 28. Therefore, upon allowance of independent claims 11 and 21, consideration of claims 16, 19, 25, and 28 is respectfully requested.

Conclusion

Based on all of the above, it is respectfully submitted that the present application is now in proper condition for allowance. Prompt and favorable action to this effect and early passing of this application to issue are respectfully solicited.

Should the Examiner disagree with any of applicant's submission above, the Examiner is respectfully requested to phone applicant's representative and discuss the remaining issues so as to expedite the allowance of the subject patent application.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP

By /Alfred W. Froeblich/
Alfred W. Froeblich
Reg. No. 38,887
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: November 25, 2008